

COMPLETING THE MISSOURI RIGHT TO LIFE DURABLE POWER OF ATTORNEY FOR HEALTH CARE

This paper provides background information for the MRL Durable Power of Attorney for Health Care (DPAHC) and points out how to complete the MRL DPAHC form.

THE NEED FOR MRL'S DURABLE POWER OF ATTORNEY FOR HEALTH CARE

MRL's DPAHC is quite different from DPAHC's that are sponsored by many other organizations. MRL's suggests an approach that accounts for developments in medicine and in your own health in the future. Others often contain a static "check the box" approach that cannot take into account yet-be-discovered therapies that may become available to treat your health conditions in the future.

MRL provides a DPAHC with a flexible approach that begins with your appointment of a health care agent who understands your principles and priorities that you will carry into the future. If and when you reach a point where you can no longer provide or refuse informed consent to certain suggested treatments, your health care agent can, under authority of the DPAHC, make health-care decisions in accordance with your principles and in light of the most up-to-date medical treatments then available.

For a summary of the pro-life principles that guide MRL's approach, please see part 3 of the DPAHC and additional materials that are available on MRL's web site (www.missourilife.org).

READING MRL'S DPAHC

You may find it helpful to read the text of the DPAHC before you fill in the form. Any text in this form may be altered if you want to do so after obtaining advice. You want to be careful that you do not inadvertently make changes that weaken the protection of your life under MRL's form of DPAHC. Be aware that most attorneys, even otherwise pro-life attorneys, are unfamiliar with pro-life principles at the end of life. You may need to help educate your attorney about them as part of your conversation.

None of the terms of this "how to" memo, MRL's Durable Power of Attorney for Health Care, and other MRL materials concerning end-of-life issues provide you with legal advice. You should obtain legal advice from an attorney of your choice before you enter into this or any other DPAHC.

You may also find it useful to confer with a member of the clergy about the moral issues raised in end-of-life situations and how MRL's DPAHC fits in with the principles of your religious beliefs. Perhaps your Health Care Agent can join in your conferences about these principles.

FILLING IN THE BLANKS TO COMPLETE

That said, the very first item to complete in the MRL DPAHC is your name. You will fill in the blanks in the title and again in the first line of part 1, "Establishment and Appointment of Health Care Agent."

The next blanks to complete are found in the second line of part 1 of the DPAHC. They indicate your appointment of a Health Care Agent by his or her relationship with you ("son," "niece") and then his or her name. Your Agent may be a close relative, a friend, or anyone of your

choice (with few exceptions in the statute). He or she should be able and willing, if needed, to make decisions on medical care when you are no longer able to make or communicate them. For people who have pro-life principles, your Agent ideally would be someone who has the moxie to insist on respecting life when others may think your life is over and no further purpose would be served by your continuing to live.

You will want to confer ahead of time with your proposed Health Care Agent about the provisions of the DPAHC. You will also want your Health Care Agent to demonstrate his or her assent to serving in this position by having him or her sign the Consent of Health Care Agent, a copy of which is available separately from MRL's web site. Notarization of your appointed-Agent's signature is optional. Remember, your Agent's service does not begin until your incapacity is certified pursuant to part 2 of the DPAHC.

Now to a third set of blanks. At least one physician must sign an opinion that you are incapacitated before the Health Care Agent is authorized to make decisions for you. In part 2 on page 1, there is a choice provided you to require two doctors' opinions on this point. You may check either "___ (1) licensed physician" or "___ (2) licensed physicians" to show how many physicians' opinions you want to require. If neither blank is checked, the default position is that only one physician is needed to certify your incapacity.

A fourth place to fill in blanks occurs in part 7 on page 4. If your primary Health Care Agent becomes incapacitated or otherwise can no longer serve when needed, the DPAHC provides spaces for two possible successors to be named, one in succession to the other. The blanks are for names and relationships of each person, as on page 1. The appointment of a successor Health Care Agent can be of great importance in the future if needed.

Lastly, you will need to sign the completed DPAHC in the presence of a notary public and two other persons. It may take a few calls to arrange all three to be in the same room with yourself or to appear in one webcast electronically (e.g., on Zoom or WebEx) in order for you to sign the Durable Power of Attorney – Health Care in their presence. The witnesses and notary public will need to sign and fill in the additional lines as indicated on the last page.

EXTRA POWERS CLAUSE

In part 8(a), it is provided that the DPAHC will not authorize your Agent to perform certain acts peripheral to those described in the DPAHC. This is for simplicity. The acts are described in RSMo. sec. 404.710.6 (effective under sec. 404.810). (Copies of the statutes are available here.) If you desire to include any of them in the powers you give to your Agent, you may authorize them in a separate document.

CONCLUSION

After you have finalized and signed the Durable Power of Attorney for Health Care, you should keep the original in a safe place, provide a copy to appropriate health care providers, and entrust one to your Health Care Agent.

If you would like to study additional resources on the issues and principles that are involved in a pro-life approach to the end of your life, you can find references at the MRL website.